

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Bobby Hayward Smith,

Plaintiff,

Court File No.:

v.

Officer Sherry Appledorn (in her individual and official capacities), Officer Joshua Rick (in his individual and official capacities), Sergeant Gary Nelson (in his individual and official capacities), and the City of Minneapolis,

**NOTICE OF REMOVAL OF
ACTION TO UNITED STATES
DISTRICT COURT**

Defendants.

Defendants, Sherry Appledorn, Joshua Rick, Gary Nelson, and the City of Minneapolis, through their attorney, C. Lynne Fundingsland, Assistant Minneapolis City Attorney, Room 210, City Hall, 350 South Fifth Street, Minneapolis, MN 55415, hereby give notice to the Plaintiff, Bobby Hayward Smith, and to the State Court as follows:

1. Sherry Appledorn, Joshua Rick, Gary Nelson, and the City of Minneapolis are Defendants in a civil action in the District Court of the Fourth Judicial District of the State of Minnesota entitled *Officer Sherry Appledorn (in her individual and official capacities), Officer Joshua Rick (in his individual and official capacities), Sergeant Gary Nelson (in his individual and official capacities), and the City of Minneapolis*, File No.: (none), and a trial has not yet been had thereon.

2. On or about September 21, 2011, a copy of the Summons and Complaint in the above-entitled action was served upon the City of Minneapolis. A copy of the

Summons is attached as **Exhibit A**. A copy of the Complaint is attached as **Exhibit B**. Defendants' Answer is attached hereto as **Exhibit C**.

3. This Notice of Removal is filed pursuant to Title 28, United States Code, Sections 1441(a) and (b), said action in the State Court commenced against Defendants being a civil action alleging that Defendants violated the civil rights of the Plaintiff resulting in injury.

4. The Complaint alleges that under 42 U.S.C. § 1983, Defendants violated Plaintiff's rights secured by the Fourth Amendment to the United States Constitution. These are claims over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1343(a) (3) as they arise under the laws of the United States within the meaning of 28 U.S.C. § 1331, and this claim is therefore removable under 28 U.S.C. § 1441.

5. Defendants, Sherry Appledorn, Joshua Rick, Gary Nelson, and the City of Minneapolis, file herewith a copy of all process, pleadings and orders served upon them in this action, have sent written notice of the filing of this Notice of Removal to Plaintiff, will promptly file a copy of this Notice with the Clerk of the District Court for the Fourth Judicial District of the State of Minnesota, County of Hennepin, and attach the Federal Rules of Civil Procedure, Rule 11 affidavit.

WHEREFORE, notice is hereby given that the said action is removed from the State Court to this Court for trial or such other determination as this Court may make regarding the action and in accordance with its jurisdictional limits under 28 U.S.C. § 1441.

Dated: October 11, 2011

SUSAN L. SEGAL

City Attorney

By


C. LYNNE FUNDINGSLAND

Assistant City Attorney

Attorney Reg. No. 32712

DARLA J. BOGGS

Assistant City Attorney

Attorney Reg. No. 0314912

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Assistant City Attorney

Attorney Reg. No. 0310232

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(612) 673-3339

Attorneys for Defendants Sherry

Appledorn, Joshua Rick, Gary Nelson,

and the City of Minneapolis

AFFIDAVIT OF C. LYNNE FUNDINGSLAND

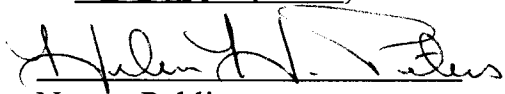
STATE OF MINNESOTA)
)SS
COUNTY OF HENNEPIN)

C. Lynne Fundingsland, being first duly sworn, states and alleges as follows:

Affiant is an attorney with the Office of the City Attorney for the City of Minneapolis and represents Defendants Sherry Appledorn, Joshua Rick, Gary Nelson, and the City of Minneapolis; she has read the foregoing Notice of Removal of Action to United States District Court and knows the contents thereof; the same is true of her own knowledge, except as to any matters stated therein on information and belief, and as to those matters, she believes them to be true.

Subscribed and sworn to
before me this 11th day
of October, 2011.


C. Lynne Fundingsland


Notary Public
My Commission expires: 1-31-2015

